

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MAKE THE ROAD NEW YORK and
MAKE THE ROAD CONNECTICUT,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, OFFICE OF THE
SECRETARY OF HOMELAND
SECURITY, U.S. CITIZENSHIP AND
IMMIGRATION SERVICES, U.S.
DEPARTMENT OF JUSTICE, OFFICE
OF THE ATTORNEY GENERAL,
OFFICE OF THE SOLICITOR
GENERAL, and OFFICE OF LEGAL
COUNSEL,

Defendants.

Case No.: 1:18-cv-02445-NGG-JO

**NOTICE TO THE COURT REGARDING THE DEPARTMENT OF HOMELAND
SECURITY'S PROCESSING OF PLAINTIFFS' FOIA REQUEST**

In response to the Court's Order of February 1, 2019, directing the Department of Homeland Security ("DHS") to "submit an explanation . . . for why it did not produce documents in November or December 2018," DHS respectfully submits the following:

1. On November 16, 2018, the Court ordered DHS to "produce all outstanding records on a rolling monthly basis by no later than February 28, 2019." ECF No. 35 at 12.
2. DHS took immediate steps to comply with the Court's November 16, 2018 order, shifting five processors, equal to one third of its office manpower, to processing Plaintiffs' FOIA request. With only 10 remaining business days in November 2018 after the Court's Order, however, DHS was unable to prepare a production for November 2018.

3. On December 20, 2018, DHS, through undersigned counsel, informed Plaintiffs' counsel that it intended to "make a production by the end of December that will satisfy its production estimates for November and December collectively."
4. However, on December 21, 2018, appropriations for the DHS and the Department of Justice lapsed, and DHS was unable to make its anticipated production for December 2018.
5. Appropriations remained lapsed throughout most of January 2019, with DHS FOIA processors returning to work on Monday, January 28, 2019.
6. On February 8, 2019, as soon as practicable after funding was restored, DHS produced to Plaintiffs' 2,700 pages responsive to Plaintiffs' FOIA request.
7. As of today, DHS has approximately 5,145 pages left to process. DHS is working diligently to complete the processing of these remaining pages.
8. DHS anticipates being able to make a sizeable production of several thousand pages in March 2019 and to complete production by April 4, 2019.

Dated: February 8, 2019

Respectfully submitted,

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